

DERBY PUBLIC SCHOOL
PO BOX 373
DERBY, CT. 06418

Janet Robinson, Supt. of Schools
(203) 736-5027 FAX (203) 736-5031

RECEIVED & INSPECTED

SEP 21 2005

FCC - MAIL ROOM

September 7, 2005

DOCKET FILE COPY ORIGINAL

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
445 - 12TH STREET, SW
WASHINGTON, DC. 20554

CC DOCKET No. 02-6

RE: **REQUEST FOR REVIEW**

TO WHOM IT MAY CONCERN:

The following is a letter of appeal requesting review of a decision made by the SLD on behalf of the Derby Public Schools, BEN 122463:

1. Contact Information:

Contact Name:	David Cornett
Address:	622 Clinton Avenue Bridgeport, CT 06605
E-Mail:	dcornett@afbcm.com
Phone:	203-335-8303
Fax:	203-335-8313

2. Identify SLD Action Appealing:

Document Title:	ADMINISTRATOR'S DECISION ON APPEAL - FUNDING YEAR 2005-2006
Funding Year:	2005
Document Date:	August 31, 2005
Applicant Name:	DERBY PUBLIC SCHOOLS
Billed Entity Number:	122463
Form 471 Number:	485648
Statement:	THIS LETTER IS AN APPEAL.

3. Funding Request Number(s): 1347759, 1347860

4. Appeal Explanation:

No. of Copies rec'd _____
List A B C D E _____

0

The **DERBY PUBLIC SCHOOLS (DPS)** is appealing the decision made by the SLD that determined the certified postmark date of Form 471 #485648 to February 23, 2005 instead of the actual postmarked date of February 18, 2005. The exhibits are as follows:

- The Form 471 certification deadline for the 2005 funding year was February 18, 2005.
- DPS' Form 471 was filed online on February 18, 2005.
- The Derby Public Schools, as stated in their original appeal to the SLD, signed, postmarked and mailed the certification page on February 18, 2005.

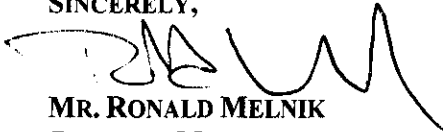
- The SLD, in the Administrator's Decision Letter, agreed that February 18th had been postmarked on the envelope. The letter also acknowledged that the postmark listed the year as 2004.
 - The letter goes on to state that in such cases, the SLD's procedure is to subtract 5 days from the date of their physical receipt date. The SLD contends they received the letter on February 28, 2005 and in turn listed the postmark date for the Form 471 as February 23, 2005.
- Finally, the letter states that appeal would be denied due to the fact that the Derby Public Schools has not provided *objective* evidence that the certification was postmarked on February 18, 2005.

The Derby Public Schools insists that the district did in fact submit objective evidence of a certified postmark date of February 18, 2005. The SLD agrees that the postmark date was February 18th; however, it makes an assumption that the year is in question and therefore not acceptable. This is a *subjective* decision on the part of SLD personnel, especially when one takes into consideration the fact that the Form 471 that the certification page represents was filed online on February 18, 2005.

Therefore, we are requesting in good faith of the program a reversal of the SLD's decision to deny the Derby Public School's appeal and accept the Form 471 postmark date as February 18, 2005.

I trust the above and the attached to be sufficient in processing our appeal. However, if you need any additional information please do not hesitate to contact me.

SINCERELY,

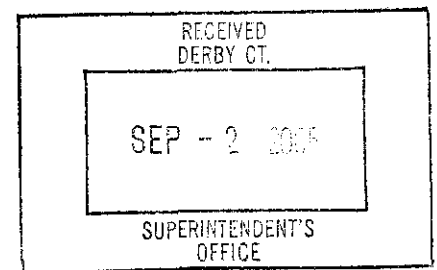
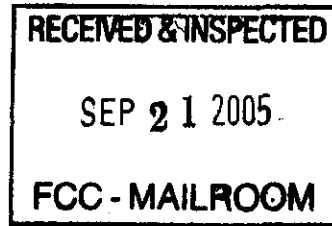


MR. RONALD MELNIK
BUSINESS MANAGER
DERBY PUBLIC SCHOOLS
(file: Appeal 485648 07SEP05)

Attachments:

Administrator's Decision on Appeal (copy)
Request for Appeal (copy)

Ronald Melnik
Derby Public Schools
33 Elizabeth Street
Derby, CT 06418



Billed Entity Number: 122463
Form 471 Application Number: 485648
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

August 31, 2005

Ronald Melnik
Derby Public Schools
33 Elizabeth Street
Derby, CT 06418

Re: Applicant Name: DERBY SCHOOL DISTRICT
Billed Entity Number: 122463
Form 471 Application Number: 485648
Funding Request Number(s): 1347759, 1347860
Your Correspondence Dated: April 28, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2005 Form 471 Certification Postmarked Outside of Window Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1347759, 1347860
Decision on Appeal: **Denied**
Explanation:

- ★ • On appeal, you contend that you personally postmarked the envelope, using the District's postage meter, with the date of February 18, 2005. Therefore, you have personal knowledge that the envelope was postmarked and mailed on time. You also state that you remember the circumstances because it was right before a three-day weekend and maybe that is what contributed to the letter being delayed in transit. You would like the SLD to consider reversing its decision to hold up this application because the postmark of the envelope containing the signed certification form was February 23 rather than February 18 or before.
- ★ • Upon review of the application and all supporting documents, it was found that the envelope containing your certification shows a faint but legible postmark of "FEB 18 '04". SLD procedure, in such cases, is to subtract five days from the

form received date, if the form was mailed from one of the 48 contiguous states. Since the Form 471 certification was received by SLD on February 28, 2005, the postmark of the signed certification form was determined as February 23, 2005. You have not provided objective evidence that the certification was postmarked on February 18, 2005 as stated in your appeal letter. Consequently, SLD denies your appeal.

- SLD denied your funding requests because it determined that your Form 471 Certification was not postmarked on or before the close of the filing window on February 18, 2005. In order to be considered within the filing window, both the application and the certification must be completed. You have failed to demonstrate that the Form 471 Certification was postmarked on or before February 18, 2005. Consequently, your appeal is denied.
- The FCC requires all parts of an application to be postmarked by the final date of the filing window for the relevant funding year for the application to be treated as having been filed within the filing window. *See Request for Review by Alpine County Unified School District, et . al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45 and 97-21, Order, DA 02-75 ¶¶ 2 and 4. (rel. Jan. 14, 2002). This includes the Form 470 Certification, the Form 471 application, and the Form 471 Certification.

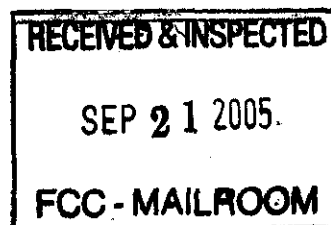
If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

Request for Appeal

Schools and Libraries Division
Box 125 – Correspondence Unit
50 South Jefferson Road
Whippany NJ 07981



April 28, 2005

Dear Schools and Libraries Division:

We have received your letter dated April 22 concerning the Funding Year 2005 Form 471 Application Number 485648. Our BEN is 122463.

The letter indicates that our application is being held up because the postmark of the envelope containing the signed certification form was February 23 rather than February 18 or before.

Because I personally postmarked the envelope using the District's postage meter when I completed the online interview and submitted the form, I have personal knowledge that the envelope was postmarked and mailed on time. This can be confirmed by our then-interim superintendent, Charles DiCenso, (letter attached) who actually signed the certification form.

I spoke with Kay Sheaffer in your Kansas office (case #21-251252) on April 26, 2005. She was extremely helpful in this matter and has forwarded to me a copy of our mailing. It does in fact show a post date of 2/18/05. The other date(s) are impossible for me to read on the copy we received. However, assuming that all postmarks are correct as stated in the denial we are asking for the decision to be reversed.

Derby Public Schools is one of the most high-needs districts in the state, so it is especially important to our students that every effort be made to support educational technology. The state of Connecticut has 9 classifications of need; we are a number 8 school out of 9, with nine being the greatest need. Lastly we are a small district about 1,500 students, and our request for financial reimbursement on the program is not a large one, it is however very important to us.

The letter was taken to the U.S. post office for mailing by Mr. Charles DiCenso on that Friday. Monday was a national holiday, Presidents day. We both remember it well as we meet at the high school to complete the form before the 3 day weekend. From time to time you hear stories about letters being delivered 10 years later; true stories. What happens in that case who knows, what happened in our case we don't know? It was along weekend, it could have ended up on the bottom of a pile for a day or two, who knows.

In closing I would like to say that I understand this program has had its difficulties. Two weeks ago I wrote letters to both U.S. Senators Dodd and Liberman from Connecticut asking for their help. Help in the form of support for the continuation of this program. We in Derby are now asking for your help in our appeal of this decision.

Sincerely,

Ronald Melnik
Business Manager

Derby Public Schools
33 Elizabeth St.
Derby Ct. 06418

My email address is rmelnik@derbyps.org, and I may be reached by telephone at (203)736-5027

DERBY PUBLIC SCHOOL
PO BOX 373
DERBY, CT. 06418

Mrs. Janet Robinson Supt. of Schools
(203) 736-5027 FAX (203) 736-5031

4/25/2005

Dear USAC

This letter is an appeal of a rejected Form 471 funding.

Appellant name: Derby school system

Applicant name: Charles DiCenso

BEN: 122463

Application number: 485648

Name of letter and funding year: 471-05-06

We are appealing the date stated in your letter of April 11, 2005 (copy attached). The actual application was filed on line well within the timeframe. As I understand it, what is in question here is the signature page. The completed document was mailed by us on Friday February 18, 2005. It is a little difficult to be clearer and more direct than that. As you can see from Mr. Ronald Melnik's attached letter we were aware of the deadline and took measures to insure we complied. I am asking that your initial findings be reviewed and overturned as we did mail the documents within the deadline.

A copy of the rejection notice is attached as information.

Please contact Mr. Ronald Melnik at the contact points shown on the enclosed letter with any questions you may have in this matter.

Thank you



Charles Dicenso
Interim Superintendent
Derby School System
33 Elizabeth St.
Derby Ct. 06418



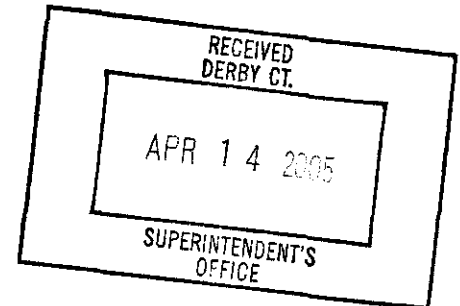
Universal Service Administrative Company
Schools & Libraries Division

FUNDING YEAR 2005 FORM 471 CERTIFICATION
POSTMARKED OUTSIDE OF WINDOW

April 11, 2005

charles DiCenso
DERBY SCHOOL DISTRICT
1 ELIZABETH STREET
DERBY, CT 06418

Re: Applicant's Form Identifier: 471-05-06
Form 471 Application Number: 485648



Dear charles DiCenso:

We are sending this letter to thank you for your recent Form 471 application. Your Form 471 Certification was postmarked on 02/23/2005, which is AFTER the 2005-2006

filing window closed at 11:59 p.m. EST on Friday, February 18, 2005.

Program rules require us to hold your application pending final review of those applications that were filed within the filing window. We will post an announcement on the SLD section of the USAC web site at www.sl.universalservice.org once we determine if funding applications that were submitted within the application filing window will fully utilize all the funds available for this Funding Year.

For more information about the processing of 2005-2006 applications, about funding for applications filed after the close of the filing window or about plans for the 2006-2007 application process, please visit our web site or call the Client Service Bureau at 1-888-203-8100.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - Appellant name,
 - Applicant name,
 - BEN,
 - Application number as assigned by the SLD,
 - Name of the letter and funding year (both are located at the top of the letter),AND
 - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.

4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD's decision. If you are a service provider, please provide a copy of your appeal to the applicant affected by the SLD's decision.

5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on the web site. Click "continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973)599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

Schools and Libraries Division
Universal Service Administrative Company

Spoke with KAT
on 4/11/05
CASE #
21-251252

Application ID : 485648



ERATE-386815

Entity Number 122463

Application Form Identifier 471-05-06

Contact Person charles DiCenso

Phone Number 203 736-5027

Block 6: Certifications and Signature

24 ☒ I certify that the entities listed in Block 4 of this application are eligible for support because they are: (Check one or both.)

a ☒ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(1) exceeding \$50 million; and/or

b libraries or library consortia eligible under the Library Services and Technology Act of 1996 that do not have endowments

are completely separate from any other entity.

25 ☒ I certify that the entity I represent has secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).



ERATE-388528

separately or through this program, to all of electrical capacity, necessary to use the services.

a Total funding year pre-discount amount on this Form 471
(Add the entries from Items 231 on all Block 5 Discount Funding Requests.)

6 9 1 9 0 . 5 6

b Total funding commitment request amount on this Form 471
(Add the entries from Items 23K on all Block 5 Discount Funding Requests.)

4 2 2 0 6 . 2 4

c Total applicant non-discount share
(Subtract Item 25b from Item 25a.)

2 6 9 8 4 . 3 2

d Total budgeted amount allocated to resources not eligible for E-rate support

0 . 0 0

e Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)

2 6 9 8 4 . 3 2

f Check this box if you are receiving any of the funds in Item 25e directly from a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Item 25e.

26 ☒ I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

a an individual technology plan for using the services requested in this application; and/or

b ☒ higher-level technology plan(s) for using the services requested in this application; or

c no technology plan needed; applying for basic local and long distance telephone service only.

27 ☒ I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.

28 ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

29 ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s), or any representative or agent thereof or any consultant in connection with this request for services.

30 ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.



Entity Number 122463Applicant's Form Identifier 471-05-06Contact Person charles DiCensoPhone Number 203 736-5027

- 31 ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
- 32 ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- 33 ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.
- 34 ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- 35 ☒ I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible components as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1), (2).
- 36 ☒ I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).
- 37 ☒ I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38 Signature of authorized person

39 Date

40 Printed name of authorized person

Charles DiCenso

41 Title or position of authorized person

Interim Technology Coordinator

42a Street Address, P.O. Box, or Route Number

1 Elizabeth Street

City

Derby

State Zip Code

CT 06418

42b Telephone number of authorized person

Ext

42c Fax number of authorized person

203 736 5027

203 503 5031

42d E-mail address of authorized person

cdicenso@derbyps.org



DERBY PUBLIC SCHOOL
33 ELIZABETH ST
DERBY CT
06418

SLD FORM 471
P.O. Box 7026
Lawrence KANSAS
66044-7026

2.23.05 (R)
12

66044+7026 50



Entity Number 122463

Applicant's Form Identifier 471-05-06

Contact Person charles DiCenso

Phone Number 203 736-5027

41 Name of authorized person's employer

Derby Public Schools

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

**SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100**

